

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SCOTT D. BIRKETT,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting
Commissioner of the Social Security
Administration,¹

Defendant.

CASE NO. 12-cv-05315 BHS

REPORT AND RECOMMENDATION
ON STIPULATED MOTION FOR
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrates Rule MJR 4(a)(4), and as authorized by *Mathews, Secretary of H.E.W. v. Weber*, 423 U.S. 261 (1976). This matter is before the Court on defendant's stipulated motion to remand the matter to the administration for further consideration. (ECF No. 23.)

¹ Carolyn W. Colvin became the Acting Commissioner of the Social Security Administration on February 14, 2013. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Carolyn W. Colvin is substituted for Michael J. Astrue as the defendant in this suit.

1 After reviewing defendant's stipulated motion and the relevant record, the undersigned
2 recommends that the Court grant defendant's motion, and reverse and remand this matter to the
3 Commissioner pursuant to sentence four of 42 U.S.C. § 405(g).

4 On remand, based on the parties' stipulation, this Court recommends that the
5 Administrative Law Judge:


- 6 1) Update the medical record;
- 7 2) Evaluate the case using the five-step disability process;
- 8 3) Reconsider the medical opinions of Charlie Lin, M.D., and Nila Jones, M.D., including
9 Dr. Jones' March 8, 2011, opinion;
- 10 4) Reevaluate plaintiff's residual functional capacity in light of the above actions; and
- 11 5) If necessary, obtain vocational expert testimony.

12 The ALJ should offer plaintiff an opportunity for a hearing, and plaintiff also may present
13 new arguments and further medical evidence, if such evidence becomes available.

14 The parties stipulate that this case be reversed and remanded to the ALJ on the above
15 grounds pursuant to sentence four of 42 U.S.C. § 405(g). Following proper presentation, this
16 Court will consider plaintiff's application for attorney's fees and expenses pursuant to 28 U.S.C.
17 § 2412(d), and costs pursuant to 28 U.S.C. § 1920

18 Given the facts and the parties' stipulation, the Court recommends that the District Judge
19 immediately approve this Report and Recommendation and order the case be **REVERSED** and
20 **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g).

21 Dated this 28th day of February, 2013.

22 

23 J. Richard Creatura
24 United States Magistrate Judge